

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	CASE NO. 8:06CR228
)	
Plaintiff,)	
)	
vs.)	MOTION
)	
SERGIO TOVAR-ARREDONDO,)	
)	
Defendant.)	

COMES NOW the Defendant, SERGIO TOVAR-ARREDONDO, and hereby moves this Court to consider a sentence at the low end of the guideline range, same being 12 months.

The Defendant bases his request on the determination by the Presentence Investigation Report that he belongs in Criminal History Category II. The Presentence Investigation Report adds 4 points to the Defendant's Base Level Calculation pursuant to U.S.S.G. §2L1.2(b)(1)(D), which provides that one who unlawfully entered or remained in the United States after being previously deported after a conviction for any other felony, garners an increase of 4 levels, from a base level of 8. The same felony causing said increase, false Social Security documentation, is used to provide a 1 point score in calculating the Defendant's Criminal History. Therefore, the Defendant is paying twice under the guidelines for this offense. Since the guidelines are advisory and since a sentence of 12 months would be within the guideline range in both

Criminal History Category I and II, the Defendant respectfully asks for a sentence of 12 months at the low end of the guideline range.

SERGIO TOVAR-ARREDONDO,
Defendant

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of December, 2006, I electronically filed the foregoing MOTION with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Christian A. Martinez, Assistant U.S. Attorney, First National Center, 1620 Dodge Street, Suite 1400, Omaha, Nebraska 68102.

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